



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV
DW 07-02

Paper No. 4

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

JUL 18 2002

OFFICE OF PETITIONS

In re Application of	:	
Saito et al.	:	
Application No. 10/047,025	:	DECISION DISMISSING
Filed: 17 January, 2002	:	PETITION
Attorney Docket No. P/16-302 DIV	:	

This is a decision on the petition filed on 17 April, 2002, requesting that the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed 4 April, 2002, in the above-identified application be withdrawn.

The application was filed on 17 January, 2002. However, on 17 April, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 17 January, 2002, and advising applicants that Pages 7 & 8 of the specification (description and claims) and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 described in the specification appeared to have been omitted from the application.

In response, on 17 April, 2002, the present petition was filed. Petitioner asserts that Pages 7 & 8 of the specification and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 were filed with the other application papers deposited on 17 January, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 17 January, 2002, and bears the above-identified application number. The postcard identifies the application by the first named inventor's name, invention title, and attorney docket number and acknowledges receipt of, *inter alia*, 75 pages of specification, claims, and abstract and

29 sheets of drawings containing Figures 1-46. Petitioners request that the application, including Pages 7 & 8 of the specification and drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, be accorded a filing date of 17 January, 2002.

A review of the record reveals that no Pages 7 & 8 of the specification or sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 have been located among the application papers deposited on 17 January, 2002. However, the evidence is convincing that the application papers deposited on 17 January, 2002, included Pages 7 & 8 of the specification as well as drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, which were subsequently misplaced in the Office.

The petition is dismissed, however, because a review of the papers filed with the present petition reveals that petitioners have not supplied a copy of the sheet of drawings containing Figure 45 described in the specification. Petitioners must therefore supply a copy of the one (1) sheet of drawings containing Figure 45 on 17 January, 2002. The petition is therefore dismissed without prejudice to reconsideration pending submission of a copy of Figure 45.

The petition fee of \$130.00 will be charged to counsel's deposit account, No. 15-0700.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 17 January, 2002, using the application papers filed on that date as well as the copies of Pages 7 & 8 of the specification and the 21 sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42, 44, and 46 supplied on 17 April, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to the undersigned at
703.308.6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy